

Report 10.5 – Review of Governance (Meeting Procedure) Local Law

Directorate: Corporate and Community Relations
Director: Helen Morrissey
Policy: *Local Government Act 1989*
Attachments: 1. Draft Governance (Meeting Procedure) Local Law No. 1 2015
2. Community Impact Statement

Purpose

For Council to consider the reviewed Governance (Meeting Procedure) Local Law No. 1 (the draft Local Law) for release for community consultation in accordance with sections 111, 119 and 223 of the *Local Government Act 1989* (the Act).

Report

1. Background

The Brimbank City Council Meeting Procedure Local Law (Local Law 1 of 2009) was made by Council resolution on 28 July 2009 and came into effect on 7 August 2009.

The draft Local Law has been reviewed against the model widely used by councils across Victoria. The review process included reference to local laws used by 12 other councils. In addition, the Local Law has been reviewed by Council's legal advisors.

The draft Local Law regulates use of the common seal of the Council, election of the Mayor, Deputy Mayor and Chairs of Special Committees, and governs the conduct of meetings of the Council and its Committees.

2. Consultation

Council will seek community feedback on the draft Local Law through a section 223 process. This includes public advertising, the opportunity for community members to make a written submission, and a further opportunity for any submitters (who request to be heard) to speak to a committee of Council in support of their written submission.

A community impact statement (at **Attachment 2** to this report) has been prepared to accompany the draft Local Law. The statement provides information on how the Local Law is likely or intended to impact the community.

3. Analysis

Key Changes

It is proposed to update the Local Law to incorporate changes in legislation and to reflect current governance practice at Brimbank. Other proposed amendments improve clarity, remove out of date requirements and terminology, with a view to enhancing Council's decision making processes.

A draft Local Law No. 1 2015 is included at **Attachment 1** to this report. All provisions of Local Law No. 1 2009 have been reviewed. Substantive changes and the rationale for those changes, are outlined in the Community Impact Statement.

**Report 10.5 - Review of Governance (Meeting Procedure) Local Law
(continued)**

Statutory Procedure

The statutory procedure for making or amending a local law includes public notice in Council's 'appointed' newspapers, on Council's website and in the Victoria Government Gazette, a public submissions and hearings process, and submission of the Local Law to the Minister for Local Government. The Local Government Victoria Guidelines for Local Laws Manual also provides for a Local Law Community Impact Statement to be prepared as part of the consultation process.

4. Resource Implications

Resource requirements for amending the Local Law can be met within Council's 2014/2015 Annual Budget.

5. Compliance Statement

This report has been prepared in accordance with the *Local Government Act 1989*, the Guidelines for Local Laws published by Local Government Victoria and the Brimbank Governance Framework.

6. Officer Recommendation

That Council, in accordance with Sections 111, 119 and 223 of the *Local Government Act 1989*:

- a. **Gives public notice of its intention to make Governance (Meeting Procedure) Local Law No. 1 2015 (at Attachment 1 to this report), and invites written submissions until Tuesday 4 May 2015.**
- b. **Endorses the Community Impact Statement (at Attachment 2 to this report) to accompany the Draft Governance (Meeting Procedure) Local Law No. 1 2015, for the purposes of community consultation.**
- c. **Publishes public notices of its intention to make Governance (Meeting Procedure) Local Law No. 1 2015 in the Victoria Government Gazette, the Brimbank Star Weekly, the Brimbank Leader, and on Council's website.**
- d. **Appoints Administrator _____ and Administrator _____ to a Committee to hear any submitters requesting to be heard in support of their written submission on the Draft Governance (Meeting Procedure) Local Law No. 1 2015.**
- e. **Sets the Hearing of Submissions Committee for the Draft Governance (Meeting Procedure) Local Law No. 1 2015, to be held on Tuesday 12 May 2015 at 5.30pm at the Keilor Municipal Offices, Old Calder Highway, Keilor.**
- f. **Receives a further report outlining any submissions received on the Draft Governance (Meeting Procedure) Local Law No. 1 2015, including a report on the Committee's proceedings and summary of hearings, and presenting a recommendation for consideration.**



BRIMBANK CITY COUNCIL

**LOCAL LAW NO. 1
2015**

GOVERNANCE (MEETING PROCEDURE) LOCAL LAW

(Adopted xxx 2015)

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PART A – INTRODUCTION

Overview:

The introductory part of the Local Law outlines the title, purpose, authority and the application of the Local Law. It also defines key terms used throughout the Local Law.

1. Title

This Local Law will be known as the "Meeting Procedure Local Law".

2. Purpose of this Local Law

The purpose of this Local Law is to:

- (a) provide for the election of the *Mayor*;
- (b) regulate the use of the common seal;
- (c) prohibit unauthorised use of the common seal or any device resembling the common seal;
- (d) provide for the procedures governing the conduct of *Council Meetings*, *Special Committee* meetings and Advisory Committee meetings;
- (e) set the rules of behaviour for those participating in or present at *Council Meetings*, *Special Committee* meetings, Advisory Committee meetings; and
- (f) provide for the appointment of *Members of Council* as members of committees established by the *Council* or as *Council* representatives to external committees and organisations.

3. Authorising Provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. Commencement and End Dates

This Local Law:

- (a) commences on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette, and operates throughout the municipal district; and
- (b) ends on the 10th anniversary of the day on which it commenced operation.

5. Revocation of Local Law No. 1 of 2009

On the commencement of this Local Law, Council's Meeting Procedure Local Law No. 1 of 2009 is revoked.

6. Definitions and Notes

- (1) In this Local Law:

"the Act" means the *Local Government Act 1989*;

"agenda" means the notice of a meeting setting out the business to be transacted at the meeting;

"*appointed newspaper*" means the newspaper or newspapers chosen by *Council* for the publication of public notices pursuant to section 3 of *the Act*;

"*authorised officer*" means a member of *Council* staff who is authorised by *Council* or the *Chief Executive Officer* to carry out specific functions under this Local Law;

"*business day*" means a day which is not a Saturday, Sunday or public holiday applicable to the *municipal district* under the *Public Holidays Act 1993*;

"*Chair*" means the Chairperson of a meeting and includes an acting, a temporary, and a substitute Chairperson;

"*Chamber*" means the room in which a *Council Meeting* or a *Special Committee* meeting is taking place, and includes any gallery or other area in view or hearing of the room;

"*Chief Executive Officer*" means the *Chief Executive Officer* of *Council* or anyone appointed to act in that position;

"*common seal*" means the common seal of *Council*;

"*Council*" means Brimbank City Council;

"*Council Meeting*" includes an *Ordinary Meeting* and a *Special Meeting*;

"*Council Code of Conduct*" means the code of conduct developed by *Council* under section 76C of *the Act*;

"*commencement speech*" means a speech made by the *Mayor* (at the *Council Meeting* held to elect the *Mayor*) outlining a vision for the Mayoral term;

"*Deputy Mayor*" means the *Member of Council* elected to hold the position of *Deputy Mayor*, if the *Council* has resolved to establish the position;

"*leave of absence*" means formal leave taken by a *Member of Council* who is not available, or unable to perform their duties for a specified period of time;

"*majority of the votes*" means the votes cast by a majority of the *Members of Council* or members of a *Special Committee* present at a meeting at the time the vote is taken;

"*Mayor*" means the *Mayor* of *Council*;

"*Member of Council*" includes a Councillor elected under *the Act*

"*minute book*" means the collective record of proceedings of *Council*;

"*municipal district*" means the municipal district of *Council*;

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*;

"*offence*" means an act or default contrary to this Local Law;

"*operational service request process*" means lodgement of a request for action through the electronic Customer Service Request System in use by the *Council*;

"*Ordinary Meeting*" means any meeting of *Council* which is not a *Special Meeting*;

"*penalty units*" mean penalty units as prescribed in the *Sentencing Act 1991* and describe the amount of a fine or financial penalty applicable to an *offence*;

"*Special Committee*" means a *Special Committee* established by *Council* under section 86(1) of *the Act*;

"*Special Meeting*" means a *Special Meeting* of *Council* convened and held in accordance with section 84, 84A or 85 of *the Act*;

"*visitor*" means any person (other than a *Member of Council*, member of a *Special Committee*, or member of *Council* staff) who is in attendance at a *Council Meeting* or a *Special Committee Meeting*;

"*website*" means the official website of the *Council* maintained in accordance with section 82A of *the Act*; and

"*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form.

(2) Definitions provided by *the Act*

The following definitions provided by *the Act* are applied to this Local Law:

advisory committee means any committee established by the *Council*, other than a *special committee*, that provides advice to—

- (a) the *Council*; or
- (b) a *Special Committee*; or
- (c) a member of *Council* staff who has been delegated a power, duty or function of the *Council* under section 98;

public notice means a notice published in a newspaper generally circulating in the municipal district of the *Council* and on *Council's website*.

(3) Overviews or introductions to Parts and Divisions, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART B - ELECTION OF *MAYOR*

Overview:

This Part is concerned with the election of the *Mayor*. It describes how the *Mayor* and a temporary *Chair* are to be elected. It also provides for the establishment of the role of a *Deputy Mayor* and any election. The appointment of *Members of Council* as members of committees established by the *Council*, and as *Council* representatives or delegates on external committees and organisations is also included in this Part.

7. Election of the *Mayor*

- (1) A *Council Meeting* to elect the *Mayor* must be held:
 - (a) as soon as practicable after the declaration of the results of a general election of *Members of Council*;
 - (b) as soon as practicable after the fourth Saturday in October in years between general elections of *Members of Council*; and
 - (c) as soon as practicable, but within 30 days, after the office of *Mayor* otherwise becomes vacant.
- (2) The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of *the Act*, this Local Law and the *Council Code of Conduct*.
- (3) The order of business at the *Council Meeting* to elect the *Mayor* is to be determined by the *Chief Executive Officer*. At the commencement of this Local Law the order will be:
 - (a) Opening (including Acknowledgement of Country);
 - (b) *Council* Commitment;
 - (c) Apologies;
 - (d) Oath/Affirmation of office (at the *Council Meeting* to elect the *Mayor* following the declaration of results of a general election of *Members of Council*);
 - (e) Term of *Mayor*;
 - (f) Election of *Mayor*;
 - (g) *Commencement speech* by incoming *Mayor*;
 - (h) Determination of position of *Deputy Mayor*;
 - (i) Election of *Deputy Mayor* (if position established);
 - (j) Appointment of *Chairs of Special Committees* (if any).
- (4) The *Member of Council* elected to the position of *Mayor* may make a *commencement speech* for up to 10 minutes outlining their vision for the Mayoral term.
- (5) A *commencement speech* may not address matters outside the powers of the *Council*, be derogatory, or be prejudicial to any person or the *Council*.

8. Method of Voting

The election of the *Mayor* must be carried out by a show of hands.

9. Determining the Election of the Mayor

- (1) The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected.
- (2) Before nominations for the office of *Mayor* are invited by the *Chief Executive Officer*, the *Council* must resolve if the term of the *Mayor* is to be for one (1) or two (2) years.
- (3) Any nominations for the office of *Mayor* must be made verbally by a *Member of Council* at the meeting to elect the *Mayor*. A nomination for *Mayor* does not require a seconder.
- (4) Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
 - (a) if there is only one (1) nomination, the candidate nominated is deemed to be elected;
 - (b) if there is more than one (1) nomination, a vote must be taken to elect one (1) of the candidates;
 - (c) in the event of a candidate receiving a *majority of the votes*, that candidate is declared to have been elected;
 - (d) in the event that no candidate receives a *majority of the votes*, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote will be taken for the remaining candidates;
 - (e) if one (1) of the remaining candidates receives a *majority of the votes*, the candidate is duly elected. If none of the remaining candidates receives a *majority of the votes*, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one (1) of the candidates receives a *majority of the votes*. That candidate must then be declared to have been duly elected;
 - (f) in the event of two (2) or more candidates having an equality of votes and one (1) of them having to be declared:
 - (i) a defeated candidate (where there are three (3) or more candidates with equal votes); or
 - (ii) duly elected (where there are two (2) candidates with equal votes)the declaration will be determined by lot;
 - (g) if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
 - (i) each candidate will draw one (1) lot;
 - (ii) the order of drawing lots will be determined by the alphabetical order of the surnames of the *Members of Council* who received an equal number of votes except that if two (2) or more such *Members of Council's* surnames are identical, the order will be determined by the alphabetical order of the *Members of Council's* first names; and
 - (iii) as many identical pieces of paper as there are *Members of Council* who received an equal number of votes must be placed in a receptacle;
 - (iv) if the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one (1) of the pieces of paper, and the *Member of Council* who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on

the remaining candidates unless there is only one (1) candidate remaining, in which case that candidate will be declared to have been duly elected); and

- (v) if the lot is being conducted to determine who is duly elected, the word "Elected" shall be written on one (1) of the pieces of paper, and the *Member of Council* who draws the paper with the word "Elected" on it must be declared to be duly elected.

The Act contains specific provisions governing the election of the Mayor and the term of office for the Mayor:

Section 71 - Election of Mayor

- (1) *At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.*
- (2) *Before a Mayor is elected under this section, the Council may resolve to elect a Mayor for a term of two (2) years.*
- (3) *The Mayor is to be elected—*
 - (a) *after the fourth Saturday in October but not later than 30 November in each year; or*
 - (ab) *if under subsection (2), the Mayor is elected for a term of two (2) years, the next election of Mayor is two (2) years after the fourth Saturday in October but not later than 30 November in the second year after the election; or*
 - (b) *as soon as possible after any vacancy in the office of Mayor occurs.*
- (4) *The election of a Mayor after the period specified in this section does not invalidate the election.*

Section 72 - Term of office

- (1) *The office of Mayor becomes vacant—*
 - (a) *at 6 a.m. on the day of the election of the Mayor; or*
 - (b) *if he or she dies or ceases to be a Councillor; or*
 - (ba) *if his or her office as a Councillor is suspended for any period under this Act; or*
 - (c) *if he or she resigns in writing which is given at a Council Meeting or to the Chief Executive Officer; or*
 - (ca) *if he or she becomes ineligible to hold office under section 81K; or*
 - (d) *if he or she is ousted from office.*
- (2) *For the avoidance of doubt, the office of Mayor becomes vacant under subsection (1)(b) at 6 a.m. on the day of a general election whether or not the Mayor has completed his or her term of office as resolved by the Council under section 71(1).*
- (3) *Any Councillor is eligible for election or re-election to the office of Mayor.*

10. Role of Deputy Mayor

- (1) At the meeting at which the *Mayor* is to be elected, the *Council* may resolve to establish the position of *Deputy Mayor* and elect a *Member of Council* to the position of *Deputy Mayor*.
- (2) If *Council* resolves to elect a *Member of Council* to the position of *Deputy Mayor*, *Council* must also resolve to appoint the person holding the position of *Deputy Mayor* as *Acting Mayor*, if there is a vacancy in the office of *Mayor* or the *Mayor* is absent, incapable of acting or refusing to act.
- (3) The *Mayor* is considered to be absent, incapable of acting or refusing to act, if the *Mayor* is on a *leave of absence*.
- (4) An *Acting Mayor* may perform any function or exercise any power conferred on the *Mayor*.
- (5) If the *Mayor* is not in attendance at a *Council Meeting* the *Deputy Mayor* must take the *Chair* in accordance with clause 14, but is not considered to be the *Acting Mayor*.

- (6) The term of a *Deputy Mayor* is identical to the term of the *Mayor* as resolved by *Council* in accordance with clause 9 (2).
- (7) If the *Council* has not resolved to establish the position of *Deputy Mayor*, other than clause 10 (1), any provisions in this Local Law relating to the *Deputy Mayor* have no effect.

The Act does not contain any reference to the role of Deputy Mayor. Council may establish the role of Deputy Mayor in order to provide clarity regarding who will take the chair if the Mayor is absent from a Council Meeting or who will undertake the Mayoral duties, if the Mayor is absent, incapable of performing the duties of the Mayor, or unwilling to perform those duties. In these cases the Mayor will take leave of absence.

In addition to electing a Deputy Mayor (if Council establishes the role), Council must also resolve that the Deputy Mayor will be Acting Mayor on any occasion that the Mayor takes a leave of absence.

If Council has not resolved to have the position of Deputy Mayor, an Acting Mayor will need to be appointed each time the Mayor takes leave (and a temporary Chair, if the Mayor is not in attendance at a Council Meeting).

If a Deputy Mayor, or any other Member of Council is appointed as Acting Mayor, they will continue to receive only their Councillor allowance unless Section 74A(1A) of the Act applies:

Section 74A(1A):

If a Councillor is appointed to act as Mayor under section 73(3) for a continuous period exceeding 50 days, the acting Mayor may be paid a Mayoral allowance instead of a Councillor allowance for the period that they are acting as Mayor.

11. Election of *Deputy Mayor* and Temporary Chair

Any election for:

- (a) any office of *Deputy Mayor*; or
- (b) temporary *Chair*, in cases where the *Mayor* and any *Deputy Mayor* are absent from a *Council Meeting*

will be regulated by clauses 7-9 (inclusive) of this Local Law, as if the reference to the:

- (c) *Chief Executive Officer* is a reference to the *Mayor* (in the case of any election for *Deputy Mayor*); and
- (d) *Mayor* is a reference to the *Deputy Mayor* or the temporary *Chair* (as the case may be).

12. Appointment of *Council Representatives* and Delegates

At a *Council Meeting* held as soon as practicable after the meeting at which the *Mayor* is elected, and as soon as practicable after a new representative opportunity arises, *Council* must resolve to:

- (a) appoint *Members of Council* as members of, or representatives on, committees established by the *Council*; and
- (b) appoint *Members of Council* as delegates to external committees and organisations

for the ensuing *Council* year.

PART C - COUNCIL'S COMMON SEAL

Overview:

The *common seal* is a device which formally and solemnly records the collective will of *Council*. The provisions in this Part are designed to protect the integrity of the common seal, and describe when it may be affixed to a document. As many of the powers, duties and functions of a *Council* are these days formally delegated to the *Chief Executive Officer* and other members of *Council* staff, the *common seal* of *Council* is only used on legal documents such as local laws, contracts, agreements, transfers of land and other documents where required by legislation or where outside the authority of the instruments of delegation.

13. Council's Common Seal

- (1) The *Chief Executive Officer* must ensure the security of *Council's common seal* at all times.
- (2) The *common seal* must only be affixed to a document for the purpose of giving effect to a decision which has been made by resolution of *Council*.
- (3) The affixing of *Council's common seal* to any document must be attested to by the signatures of both:
 - (a) a *Member of Council*; and
 - (b) the *Chief Executive Officer* or, in the absence of the *Chief Executive Officer*, a member of *Council* staff delegated this function by *Council*.
- (4) Where *Council* authorises the *common seal* to be affixed to any document, the *Chief Executive Officer* must cause the sealed document to be allocated a seal register number.
- (5) Where the *common seal* is affixed to a document on the authority of *Council*, the sealing clause must contain the following words:

The Common Seal of **BRIMBANK CITY COUNCIL**
was hereunto affixed in the presence of:

.....*Mayor/Member of Council*

.....*Chief Executive Officer*

Date:
- (6) A person must not use the *common seal* or any device resembling the *common seal* without the authority of *Council*.

PART D - MEETINGS PROCEDURE

Overview:

This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting and the particular circumstances of *Special Committee* and *Advisory Committee* meetings.

In any provision of the Local Law where *Council* has discretion to decide something (for example to grant consent, agree or admit business), a resolution is required.

DIVISION 1 – ROLE OF CHAIR

Overview:

The *Mayor* must take the *Chair* at all *Council Meetings* at which the *Mayor* is present. If the *Mayor* is absent, the *Deputy Mayor* (if any) must take the *Chair* and if both are absent, *Council* must elect one (1) of the *Members of Council* as temporary *Chair*.

The way in which *Council* and committee meetings are conducted makes a significant contribution to good governance. The *Chair* plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all *Members of Council*, *Special Committees* and *advisory committees* have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately and statutory requirements are adhered to.

The *Chair* is an independent leader of meetings and generally does not participate in debate or move or second motions.

Specific duties and discretions of the *Chair* are outlined throughout this Local Law.

14. **Mayor to take Chair**

- (1) The *Mayor* must take the *Chair* at all *Council Meetings* at which the *Mayor* is present.
- (2) If the *Mayor* is not in attendance at a *Council Meeting*, the *Deputy Mayor* (if applicable) must take the *Chair*.
- (3) If the *Mayor* and any *Deputy Mayor* are not in attendance at a *Council Meeting*, *Council* must elect one (1) of the *Members of Council* as temporary *Chair*.

15. **The Chair's Duties and Discretions**

In addition to the specific duties and discretions provided in this Local Law:

- (a) the *Chair* must not accept any motion, question or statement which is derogatory, or defamatory of any *Member of Council*, member of *Council* staff, or member of the community; and
- (b) if the behaviour of a person is disruptive and interferes with the conduct of the business of *Council*, the *Chair* must call that person to order.

DIVISION 2 - NOTICE OF MEETINGS AND DELIVERY OF AGENDAS

Overview:

Ordinary Council Meetings are held regularly to conduct the ongoing business of the *Council* and *Special Council* meetings are held from time to time for specific purposes. An *agenda* must be provided to *Members of Council* in advance so that they can prepare adequately for the meeting.

16. Dates and Times of Meetings

At a *Council Meeting* held as soon as practicable after the meeting at which the *Mayor* is elected, but not later than the last *Council Meeting* of the calendar year, *Council* must fix the date, time and place of all *Ordinary Meetings* for the following calendar year.

17. Council May Alter Ordinary Meeting Dates

Council may change the date, time and place of any *Ordinary Meeting* which has been fixed and must provide public notice of the change in accordance with section 89(4) and (4A) of *the Act*.

18. Special Meetings

- (1) The *Mayor* or at least three (3) *Members of Council* may by a written notice call a *Special Meeting*.
- (2) The notice must specify the date and time of the *Special Meeting* and the business to be transacted.
- (3) The notice must be delivered to the *Chief Executive Officer* in sufficient time to provide public notice of the *Special Meeting*.
- (4) The *Council* may by resolution call a *Special Meeting*.
- (5) The resolution must specify the date and time of the *Special Meeting* and the business to be transacted. The date and time of the *Special Meeting* must not be prior to 6pm the day following the *Council Meeting* at which the resolution has been made.
- (6) The *Chief Executive Officer* must convene the *Special Meeting* as specified in the notice or resolution.
- (7) Unless all *Members of Council* are present and unanimously agree to deal with any other matter, only the business specified in the notice or resolution is to be transacted.
- (8) Subject to any resolution providing otherwise, the order of business of any *Special Meeting* must be the order in which such business stands in the agenda for the meeting.

The Chief Executive Officer can call a Special Meeting within 14 days of the result of the Council election being declared.

Apart from this, the only other type of Special Meeting that can be convened is a "Call of the Council". This is provided for in section 85 of the Act. It is generally reserved for occasions on which all Members of Council are required to attend and remain throughout a Council Meeting lest Council be deprived of a quorum and be unable to transact an item of business which has, in the past, not been transacted because of some Members of Council absenting themselves from the Chamber and preventing proper consideration of the matter.

19. Notice of Meeting

- (1) An *agenda* must be delivered, or sent electronically, to every *Member of Council* for all *Ordinary Meetings* at least 48 hours before the meeting.
- (2) An *agenda* must be delivered, or sent electronically, to every *Member of Council* for any *Special Meeting* within a reasonable time of the *Special Meeting* being called. Generally, this means that a notice of meeting must be delivered, or sent electronically, to every *Member of Council* at least 48 hours before the meeting. A period less than 48 hours may, however, be justified if exceptional circumstances exist.
- (3) Notwithstanding sub-clauses (1) and (2), an *agenda* need not be served on any *Member of Council* who has been granted *leave of absence* unless the *Member of Council* has requested the *Chief Executive Officer* in writing to continue to deliver an *agenda* during the period of his or her absence.
- (4) Public notice of each *Ordinary Meeting* and *Special Meeting* must be provided to the public. *Council* may do this:
 - (a) for *Ordinary Meetings* by preparing a schedule of meetings annually, twice yearly, or from time to time, and arranging publication of such schedule in the *appointed newspaper* either at various times throughout the year, or at least seven (7) days prior to each *Ordinary Meeting*; or
 - (b) for *Special Meetings* by publishing public notice of the meeting in the *appointed newspaper* at least seven (7) days prior to each *Special Meeting*
 and for any meeting by giving notice:
 - (c) in each of its Customer Service Centres;
 - (d) in each of its libraries; and
 - (e) on its *website*.
- (5) If urgent or extraordinary circumstances prevent the giving of notice seven (7) days prior to an *Ordinary Meeting* or *Special Meeting*, *Council* will give notice of the meeting on its *website* and by using other electronic media as determined by the *Chief Executive Officer*.

The Act provides that Council must at least seven (7) days before the holding of an Ordinary Council Meeting, a Special Council Meeting or a meeting of a Special Committee comprised solely of Members of Council, give public notice of the meeting (s89(4)). If urgent or extraordinary circumstances prevent the Council from giving the prescribed notice, Council must give such public notice as is practicable and specify in the minutes of the meeting the urgent or extraordinary circumstances which prevented Council from complying (s89(4A)).

In the case of Special Committees that are not comprised solely of Members of Council, the committee Chair must provide reasonable notice to the public of meetings of the Special Committee (s89(5)).

Council must ensure that public notice of any meeting is also published on Council's website (s89(2A)).

DIVISION 3 – QUORUM

Overview:

No business can be transacted at a *Council Meeting* unless a quorum, that is a majority of the *Members of Council*, is present. If there is no quorum at the commencement of a meeting or if a quorum cannot be maintained during a meeting, the meeting is to be adjourned to another date and/or time. *Council Meetings* must commence within 30 minutes of the scheduled starting time and must not continue after 10pm unless a majority of *Members of Council* agree.

20. **Council Meetings**

The quorum for *Council Meetings* is the presence of a majority of the *Members of Council*.

21. **Special Committee meetings**

The quorum for *Special Committee* meetings is the presence of a majority of the members of the *Special Committee*.

22. **Leave of absence**

- (1) A *Member of Council* or a member of a *Special Committee* intending, or likely, not to be in attendance at a *Council Meeting* or *Special Committee* meeting may:
 - (a) submit an apology by advising the *Mayor* or *Chair* of the meeting; or
 - (b) apply for *leave of absence* by advising the *Chief Executive Officer* in writing of the period of the proposed *leave of absence*.
- (2) Where the *leave of absence* is sought by a *Member of Council*, the *Chief Executive Officer* must submit the request for *leave of absence* to the next *Ordinary Meeting* and the *Council* must not unreasonably refuse to grant the request for *leave of absence*.
- (3) Where *leave of absence* has been granted to a *Member of Council* or a member of a *Special Committee*, the *Chief Executive Officer* must record the *leave of absence* in the minutes of each *Council Meeting* and relevant *Special Committee* meeting held during the period of *leave of absence*.
- (4) *Leave of absence* cannot be granted in respect of a past meeting.

23. Inability to Obtain a Quorum

If, after 30 minutes from the scheduled starting time of any *Ordinary Meeting* or *Special Meeting*, a quorum cannot be obtained, those *Members of Council* present or, if no *Members of Council* are present, the *Chief Executive Officer* or, in the absence of the *Chief Executive Officer*, a member of *Council* staff authorised by the *Chief Executive Officer*, may adjourn the meeting to a date and/or time to be determined. If the meeting is not adjourned, the meeting will be deemed to have lapsed.

24. Inability to Maintain a Quorum

If, during any *Ordinary Meeting* or *Special Meeting* or any adjournment of the meeting, a quorum cannot be maintained, those *Members of Council* present or, if no *Members of Council* are present, the *Chief Executive Officer* or, in the absence of the *Chief Executive Officer*, a member of *Council* staff authorised by the *Chief Executive Officer*, may adjourn so much of the meeting as remains to a date and/or time to be determined.

25. Inability to Achieve or Maintain a Quorum Due to Conflicts of Interest of Members of Council

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one (1) or more *Members of Council*, the *Chair* may defer the item of business in respect of which there is or is likely to be a disclosure of interest by one (1) or more *Members of Council*, and direct the *Chief Executive Officer* to include that item of business on an *agenda* for a future *Council Meeting*.

26. Adjournments by Council

Council may adjourn any meeting to another date or time but cannot adjourn a meeting in session to another place.

27. Adjourned Meetings

- (1) The *Chief Executive Officer* or a member of *Council* staff authorised by the *Chief Executive Officer* must give notice to each *Member of Council* of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- (2) If it is impracticable for the notice given under sub-clause (2) to be in writing, the *Chief Executive Officer* must make reasonable endeavours to give notice to each *Member of Council* using all practical means.

28. Time Limits for Meetings

- (1) An *Ordinary Meeting* or a *Special Meeting* must not continue after 10pm unless a majority of the *Members of Council* present vote in favour of its continuance for up to 30 minutes.
- (2) A meeting may only be continued for a maximum of two (2) 30 minute periods.
- (3) In the absence of such continuance as provided for in sub-clauses (1) and (2), the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of clause 27 apply.

29. Cancellation or Postponement of a *Council Meeting*

- (1) The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council Meeting*, cancel or postpone an *Ordinary Meeting* or a *Special Meeting*.
- (2) The *Chief Executive Officer* must present to the immediately following *Ordinary Meeting* a written report on any exercise of the power conferred by sub-clause (1).

DIVISION 4 – BUSINESS OF MEETINGS

Overview:

The business to be transacted at a *Council Meeting* is contained in the *agenda* provided to *Members of Council* and available to the public on *Council's website*. The *Chief Executive Officer* oversees preparation of the *agenda* and determines the order of business to facilitate open, efficient and effective processes of government. *Council* can admit an item of urgent business if it has arisen after distribution of the *agenda* and cannot be reasonably deferred to the next meeting.

30. **Agenda Items**

- (1) No business can be dealt with at an *Ordinary Meeting* unless:
 - (a) it is contained in the *agenda*; or
 - (b) it is admitted as urgent business under clause 36.
- (2) The *Chief Executive Officer* may include any matter on the *agenda* for an *Ordinary Meeting* which the *Chief Executive Officer* thinks should be considered at the meeting to which the *agenda* relates.

31. **Accessibility**

- (1) *Council* will conduct *Council Meetings* in a venue that is accessible for the purposes of the *Disability Discrimination Act 1992*.
- (2) A *Member of Council* or a member of the public may, at least two (2) *business days* prior to a *Council Meeting*, request that the *Chief Executive Officer* provide language or communication supports at the meeting.
- (3) The *Chief Executive Officer* will determine the level of language or communication support to be provided, including the use of interpreters or other technologies, to assist a person in accessing the *Council Meeting*.

32. **Order of Business**

The order of business is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government. At the commencement of this Local Law it will, for *Ordinary Meetings*, be:

- (a) Opening (including Acknowledgement of Country);
- (b) Council Commitment;
- (c) Apologies/Leave of Absence;
- (d) Disclosure of Conflicts of Interest;
- (e) Designation of Items as Confidential;
- (f) Confirmation of Minutes of Previous Meetings;
- (g) Public Question Time;
- (h) Condolences
- (i) Congratulations;
- (j) Petitions;
- (k) Minutes/Reports of *Special Committees*;
- (l) Officer Reports;
- (m) Notices of Motion;
- (n) Rescission Motions;
- (o) Urgent Business; and
- (p) Confidential Business.

33. Change to Order of Business

Once an *agenda* has been sent to *Members of Council*, the order of business for that *Council Meeting* may be altered with the consent of *Council*.

34. Conflicts of Interest

- (1) A *Member of Council* must disclose any conflict of interest which that *Member of Council* has in an item of business at the time specified in the *agenda*.
- (2) Nothing in sub-clause (1) takes away from a *Member of Council's* duty under *the Act* to disclose the existence, nature and class of any conflict of interest which that *Member of Council* has in an item of business immediately before the consideration or discussion of that item of business.
- (3) Members of Council staff in attendance at a *Council Meeting* will disclose any conflict of interest that Officer has in an item of business listed on an *agenda* to be considered by the *Council* at a *Council Meeting*, in addition to any other declarations of the conflict of interest, already made in accordance with *Council* policy and *the Act*.

Section 77A of the Act defines when a Member of Council will have a conflict of interest. Any Member of Council who has a conflict of interest must comply with the requirements of section 79 of the Act.

Among these requirements is the requirement to disclose the existence, class and nature of the conflict of interest. This must be done 'immediately' before the consideration or discussion of the item in which the Member of Council has a conflict of interest.

So, even if the Member of Council has disclosed the conflict of interest earlier in the meeting, the existence, class and nature of the conflict of interest must again be disclosed immediately before any consideration or discussion of the agenda item occurs.

35. Reports of Council Representatives and Delegates

A *Member of Council* who is:

- (a) the *Chair* of an *advisory committee* or a *Special Committee* established by the *Council*;
- (b) appointed by *Council* as a member of a community consultative or reference committee; or
- (c) a delegate, nominee or appointee to an external committee, body, association, group or working party

shall present to *Council* a written account on the most recent deliberations of the committee, body, association, group or working party at the next practicable *Council Meeting*.

36. Urgent Business

- (1) Business can only be admitted as urgent business by resolution of *Council*, and only then if it:
 - (a) relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
 - (b) cannot be deferred until the next *Ordinary Meeting* without having a negative impact on the *Council*, the municipality or the local community; and

- (c) cannot be addressed through the *operational service request process*.
- (1) A *Member of Council* proposing that a matter be admitted as urgent business must lodge it in writing with the *Chief Executive Officer* by 4pm on the day of the meeting.
- (2) The *Chief Executive Officer* will advise the *Mayor* of any matter that the *Chief Executive Officer* determines appropriate for *Council* to consider admitting as urgent business.

DIVISION 5 – MOTIONS AND DEBATE

Overview:

This Division describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the *Chair* in relation to accepting motions and amendments. It also describes the process for a *Member of Council* lodging a *notice of motion* for consideration.

A flowchart depicting the procedure for motions and amendments is provided for reference in Schedule 2.

37. **Members of Council may Propose Notices of Motion**

Members of Council may ensure that an issue is listed on an *agenda* by lodging a *notice of motion*.

38. **Notice of Motion**

- (1) A *notice of motion* must be in writing signed by a *Member of Council*, and be lodged with the *Chief Executive Officer* at least five (5) clear days before the *Council Meeting* to allow sufficient time to include the *notice of motion* in the *agenda* to be provided to each *Member of Council* in accordance with clause 19.
- (2) The *Member of Council* proposing a *notice of motion* must circulate the draft *notice of motion* to all *Members of Council* for information before lodging it with the *Chief Executive Officer*.
- (3) Evidence that a draft *notice of motion* has been circulated to all *Members of Council* prior to being lodged with the *Chief Executive Officer*, must be provided to the *Chief Executive Officer* at the time of lodging the *notice of motion*.
- (4) The *Chief Executive Officer* must reject any *notice of motion* which:
 - (a) is too vague;
 - (b) is identical or substantially similar to a *notice of motion* or other motion that has been considered by *Council* in the preceding six (6) months;
 - (c) is defamatory;
 - (d) may be prejudicial to any person or *Council*;
 - (e) is objectionable in language or nature;
 - (f) is outside the powers of *Council*; or
 - (g) the evidence of circulation to other *Members of Council* has not been provided to the *Chief Executive Officer*.
- (5) The *Chief Executive Officer* may reject any *notice of motion* that relates to a matter that can be addressed through the operational service request process.

- (6) If rejecting a *notice of motion*, the *Chief Executive Officer* must:
 - (a) give the *Member of Council* who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - (b) if the *notice of motion* cannot be amended to the satisfaction of the *Chief Executive Officer*, notify, in *writing*, the *Member of Council* who lodged it of the rejection and the reasons for the rejection.
- (7) The *Chief Executive Officer* may designate a *notice of motion* to be confidential in accordance with the relevant grounds as contained in *the Act*, in which case the *notice of motion* will be considered in a session of a *Council Meeting* that is closed to members of the public
- (8) The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- (9) The *Chief Executive Officer* may arrange for comments of members of *Council* staff to be provided to *Members of Council* prior to the *notice of motion* being published in the *agenda* for the relevant *Council Meeting*.
- (10) The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the *notice of motion* register in the order in which they were received.
- (11) Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the *notice of motion* register.
- (12) If a *Member of Council* who has lodged a *notice of motion* is absent from the *Council Meeting* at which the *notice of motion* is to be considered, or fails to move the motion when called upon to do so by the *Chair*, any other *Member of Council* may move the *notice of motion*.
- (13) If a *notice of motion* is not moved at the *Council Meeting* at which it is listed, it lapses.
- (14) The *Chair*, having lodged a *notice of motion* in accordance with sub-clauses (1) and (2) of this clause, must vacate the *Chair* of the *Council Meeting* to move the *notice of motion* and:
 - (a) the *Deputy Mayor* will assume the *Chair*; or
 - (b) if the *Deputy Mayor* is not in attendance or there is no *Deputy Mayor*, *Council* must appoint a temporary *Chair*
 for the consideration of that item.

Section 77 of the Act provides for information to be designated confidential.

Section 89 (2) provides the following grounds for a confidential matter to be considered at a meeting closed to members of the public:

- (a) *personnel matters;*
- (b) *the personal hardship of any resident or ratepayer;*
- (c) *industrial matters;*
- (d) *contractual matters;*
- (e) *proposed developments;*
- (f) *legal advice;*
- (g) *matters affecting the security of Council property;*
- (h) *any other matter which the Council or Special Committee considers would prejudice the Council or any person;*
- (i) *a resolution to close the meeting to members of the public.*

39. Chair's Duty

- (1) Any motion which is determined by the *Chair* to be:
- (a) defamatory;
 - (b) objectionable in language or nature;
 - (c) vague or unclear in intention;
 - (d) outside the powers of *Council*; or
 - (e) irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,
- must not be accepted by the *Chair*.
-

40. Introducing a Report

- (1) Before a written report is considered by *Council* and any motion moved in relation to such report, a member of *Council* staff may introduce the report by indicating in not more than two (2) minutes:
- (a) its background; or
 - (b) the reasons for any recommendation which appears.
-

41. Introducing a Motion or an Amendment

The procedure for moving any motion or amendment is:

- (a) the mover may briefly state the nature of the motion and then must move it without speaking to it;
- (b) the motion must be seconded by a *Member of Council* other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- (c) if a motion or an amendment is moved and seconded the *Chair* must ask whether the motion is opposed and/or whether any *Member of Council* wishes to speak to the motion;
- (d) if no *Member of Council* indicates opposition or a desire to speak to the motion, the *Chair* may declare the motion or amendment carried without discussion;
- (e) if a *Member of Council* indicates opposition or a desire to speak to the motion, then the *Chair* must call on the mover to address the meeting;
- (f) after the mover has addressed the meeting, the seconder may address the meeting or reserve his or her right to address the meeting;
- (g) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any *Member of Council* who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- (h) if, after the mover has addressed the meeting, the *Chair* has invited debate and no *Member of Council* speaks to the motion, then the *Chair* must put the motion to the vote.

42. Right of Reply

- (1) If there has been any opposition to a motion, the mover of a motion has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken, but subject to any *Member of Council* exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

43. Moving an Amendment

- (1) Subject to sub-clause (2) a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- (2) A motion to confirm a previous resolution of *Council* cannot be amended.
- (3) An amendment must not be the negative of, or substantially contrary to, the motion.

If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see Foreshadowing Motions in clause 47.

44. Who may Propose and Debate an Amendment

- (1) An amendment may be proposed or seconded by any *Member of Council*, except the mover or seconder of the original motion.
- (2) Any one (1) *Member of Council* cannot move more than two (2) amendments in succession.
- (3) Any *Member of Council* can debate an amendment irrespective of whether the *Member of Council* has spoken or proposes to speak to the original motion.
- (4) Debate on an amendment must be confined to the terms of the amendment.
- (5) The mover of an amendment cannot exercise a right of reply.

45. How many Amendments may be Proposed

- (1) Any number of amendments may be proposed to a motion but only one (1) amendment may be accepted by the *Chair* at any one (1) time.
- (2) No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

46. An Amendment Once Carried

- (1) If the amendment is carried, the motion as amended then becomes the substantive motion before the *Council Meeting* and can be further amended.
- (2) The mover of the original motion retains the right of reply to the substantive motion.

47. Foreshadowing Motions

- (1) At any time during debate a *Member of Council* may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the *Council Meeting*, but this does not extend any special right to the foreshadowed motion.
- (2) A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a *Member of Council* intends to move an alternative or additional motion.
- (3) The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- (4) A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council Meeting*.

48. Withdrawal of Motions

- (1) Once a motion or amendment is seconded it cannot be withdrawn, except with the leave of the *Chair* and the consent of both the mover and seconder.
- (2) If the majority of *Members of Council* object to the withdrawal of the motion, it may not be withdrawn.

49. Separation of Motions

Where a motion contains more than one (1) part, a *Member of Council* may request the *Chair* to put the motion to the vote in separate parts.

50. Chair may Separate Motions or Allow Motions to be Moved in a Block

- (1) The *Chair* may decide to put any motion to the vote in several parts.
- (2) The *Chair* may allow or request *Members of Council* to move “like items” in a block (*en bloc*).

51. Priority of Address

In the case of competition for the right of speak, the *Chair* must decide the order in which the *Members of Council* concerned will be heard.

52. Motions in Writing

- (1) The *Chair* may require that a complex or detailed motion be in writing.
- (2) *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter in the order of business, until the motion has been *written*.

53. Repeating Motion and/or Amendment

The *Chair* may request the person taking the minutes of the *Council Meeting* to read the motion or amendment to the *Council Meeting* before the vote is taken.

54. Debate must be Relevant to the Motion

- (1) Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- (2) If after being requested to confine debate to the motion before the *Chair*, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the *Chair*.
- (3) A speaker to whom a direction has been given under sub-clause (2) must comply with that direction.

55. Speaking Times

- (1) A *Member of Council* must not speak longer than the time set out below, unless granted an extension by the *Chair*:
 - (a) the mover of a motion or an amendment: five (5) minutes;
 - (b) any other *Member of Council*: three (3) minutes; and
 - (c) the mover of a motion exercising a right of reply: two (2) minutes.
- (2) Only one (1) extension is permitted for each speaker.
- (3) Any extended speaking time must not exceed two (2) minutes.

56. Addressing the Council Meeting

- (1) If the *Chair* so determines:
 - (a) any person addressing the Chair must refer to the Chair as:
 - (i) *Madam Mayor*; or
 - (ii) *Mr Mayor*; or
 - (iii) *Madam Chair*; or
 - (iv) *Mr Chair*; or
 - (v) *Mayor*; or
 - (vi) *Chair*as the case may be;
 - (b) all Members of Council, other than the Mayor, must be addressed as:
Councillor (family name)
 - (c) all members of Council staff must be addressed as:
Mr or Ms (family name) as appropriate or by their official title.
- (2) Except for the *Chair*, any *Member of Council* or person who addresses a *Council Meeting* must stand and direct all remarks through the *Chair* unless granted an exemption by the *Chair*.

57. Right to Ask Questions

- (1) A *Member of Council* may, when no other *Member of Council* is speaking, ask through the *Chair* any question concerning or arising out of the motion or amendment before the *Chair*.
- (2) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 6 – PROCEDURAL MOTIONS

Overview:

A procedural motion is a motion which deals with conduct of the meeting itself. Both the 'adjournment of debate' motion and the 'closure' motion contained in this Local Law seek to manage the business before the *Chair* and must be dealt with immediately by the *Chair*.

58. Procedural Motions

- (1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) Procedural motions require a seconder.
- (3) Notwithstanding any other provision in this Local Law, procedural motions must be dealt with in accordance with the table at Clause 58 (4).

58(4) PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover / Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any <i>Member of Council</i> who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another <i>Member of Council</i> is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. The closure	That the motion be now put	Any <i>Member of Council</i> who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any <i>Member of Council</i> exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
3. Alter the order of business	That the item listed as xx on the agenda be considered before/after the item listed as item xy	Any <i>Member of Council</i> (including the <i>Mayor/Chair</i>)	During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>agenda</i>	No

Procedural Motion	Form	Mover / Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
4. Suspension of Standing Orders	That Standing Orders be suspended to [reason must be provided]	Any <i>Member of Council</i> (including the <i>Mayor/Chair</i>)	During any debate	The rules of the meeting are temporarily suspended for the specific reason given in the motion.	Meeting continues unaffected	No and no debate or decision on any matter. Resolution to resume Standing Orders is the only decision permissible
5. Resumption of Standing Orders	That Standing Orders be resumed	Any <i>Member of Council</i> (including the <i>Mayor/Chair</i>)	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed.	The meeting cannot continue	No
6. Consideration of confidential matter(s)	That, in accordance with section 89 (2) and 77 (2) (...) of the <i>Local Government Act 1989</i> , the meeting be closed to members of the public for the consideration of item xx which has been designated confidential in on the grounds that it contains / relates to [insert grounds from s 77 (2)]	Any <i>Member of Council</i>	N/A	The Meeting is closed to members of the public	Meeting continues to be open to the public	Yes
7. Reopen the meeting	That the meeting be reopened to members of the public	Any <i>Member of Council</i>	N/A	The Meeting is reopened to members of the public	Meeting remains closed to members of the public	No

DIVISION 7 – RESCISSION MOTIONS

Overview:

This Division describes the circumstances and procedures under which a *Council* decision can be rescinded or altered. It also prescribes a procedure under which a *Council* policy can be altered or varied. A notice of rescission is a form of *notice of motion*. Accordingly, all provisions in this Local Law regulating *notices of motion* equally apply to notices of rescission.

59. Notice of Rescission

- (1) Motions to revoke, rescind or alter a previous resolution can be made in the following ways:
 - (a) by *notice of rescission* delivered by a *Member of Council* in accordance with sub-clause (2)(c); or
 - (b) by recommendation contained in an officer's report, included in the *agenda*, that a previous decision be altered or revoked.
- (2) A *Member of Council* may propose a *notice of rescission* provided:
 - (a) it has been signed and dated;
 - (b) the resolution proposed to be rescinded has not been acted on;
 - (c) the *notice of rescission* is delivered or sent electronically to the *Chief Executive Officer* setting out:
 - (i) the resolution to be rescinded; and
 - (ii) the meeting and date at which the resolution was made.
- (3) A resolution will be deemed to have been acted on if:
 - (a) its content or substance has been formally communicated in writing by the *Chief Executive Officer* or a member of *Council* staff authorised by the *Chief Executive Officer* to a person whose interests are materially affected by it, including by the publishing of the unconfirmed minutes of a *Council Meeting* on the *website*; or
 - (b) a statutory process has been commenced so as to vest enforceable rights in or obligations on *Council* or any other person.
- (4) The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:
 - (a) has not been acted on; and
 - (b) is the subject of a *notice of rescission* which has been delivered or sent to the *Chief Executive Officer* in accordance with sub-clause (2)(c)
 unless deferring implementation of the resolution would have the effect of:
 - (c) depriving the resolution of its usefulness; or
 - (d) placing the *Council* at significant legal, financial or other risk.

60. If Lost

If a motion to rescind or alter a previous resolution is lost, an identical or similar motion may not be put before *Council* for at least six (6) months from the date it was last lost, unless *Council* resolves that the *notice of rescission* be re-listed at a future meeting.

61. If Not Moved

If a motion for rescission is not moved at the meeting at which it is listed, it lapses.

62. May Be Moved By Any Member of Council

A motion for rescission listed on an *agenda* may be moved by any *Member of Council* present but may not be amended.

63. When not Required

- (1) A motion for rescission is not required where *Council* wishes to change policy.
 - (2) Changes to policies designated by the *Council* as Major Policies may only be amended, modified or revoked in accordance with the Governance (Major Policy) Local Law No. 3 2014.
-

DIVISION 8 – POINTS OF ORDER

Overview:

A point of order is taken when a *Member of Council* draws the attention of the *Chair* to an alleged irregularity in the proceedings. This Division describes valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent on the *Chair's* ruling.

64. Valid Points of Order

A point of order may be raised in relation to anything which:

- (a) is contrary to this Local Law;
 - (b) is irrelevant to the matter under consideration;
 - (c) is outside the powers of *Council*;
 - (d) constitutes improper behaviour;
 - (e) is offensive;
 - (f) constitutes a tedious repetition of something already said;
 - (g) is an act of disorder;
 - (h) is prejudicial to any person or the *Council*; or
 - (i) is a matter that should be considered in a session of a meeting closed to public, in accordance with *the Act*.
-

65. Procedure for Point of Order

A *Member of Council* raising a point of order must state the nature of the point of order before resuming his or her seat.

66. Chair to Decide

The *Chair* must decide all points of order without entering into any discussion or comment, other than to confer with the *Chief Executive Officer*, or a member of *Council* staff authorised by the *Chief Executive Officer* for that purpose.

67. Chair may Adjourn to Consider

- (1) The *Chair* may adjourn the *Council Meeting* to consider a point of order but otherwise must rule on it as soon as it is raised.
- (2) Before adjourning the *Council Meeting*, the *Chair* will indicate the duration of the adjournment and the time at which the *Council Meeting* will resume
- (3) All other questions before *Council* are suspended until the point of order is decided.

68. Dissent from Chair's Ruling

- (1) A *Member of Council* may move that the *Council* disagree with the *Chair's* ruling on a point of order, by moving a motion of dissent.
- (2) The *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.
- (3) The *Chair* must put the motion of dissent.
- (4) If the vote is in the negative, the *Council Meeting* proceeds.
- (5) If the vote is in the affirmative, the *Chair* must then reverse or vary (as the case may be) his or her previous ruling and proceed.
- (6) The defeat of the *Chair's* ruling is in no way a motion of censure or no-confidence in the *Chair*.

DIVISION 9 – PUBLIC QUESTION TIME**Overview:**

At each *Ordinary Meeting* there is an opportunity for members of the public to submit questions to *Council*. This Division sets out the procedures to be followed to submit a question, the circumstances under which a question may be disallowed and the process for addressing and responding to the question at or after the meeting.

69. Question Time

- (1) There must be a public question time at every *Ordinary Meeting* to enable members of the public to submit questions to *Council*.
- (2) Public question time will not exceed 15 minutes in duration, unless by resolution of *Council*, in which case public question may be extended for a further period of 15 minutes.
- (3) Public question time may only be extended for a maximum of two additional 15 minute periods.
- (4) Questions submitted to *Council* must be:
 - (a) in *writing*, state the name and address of the person submitting the question and generally be in a form approved by the *Chief Executive Officer*, and
 - (b) lodged at the *Council* office (Sunshine) or submitted electronically at the designated email address prior to 12 noon on the day of the *Ordinary Meeting*.
- (5) The *Chief Executive Officer* will cause a question submitted in a language other than English to be translated to English.

- (6) A question that cannot be translated prior to the commencement of the next *Ordinary Meeting* will be translated prior to the *Ordinary Meeting* scheduled after it and the submitter will be notified.
- (7) No person may submit more than two (2) questions at any one (1) meeting.
- (8) If a person has submitted two (2) questions to a meeting, the second question:
 - (a) may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
 - (b) may not be asked if the time allotted for public question time has expired.
- (9) A member of *Council* staff nominated by the *Chief Executive Officer* must read to those present at the *Ordinary Meeting* a question which has been submitted in accordance with this clause.
- (10) Notwithstanding sub-clause (7), the *Chair* may determine that a question not be read, if the person who submitted the question is not present in the gallery at the time when the question is due to be read, and that the question be put on notice and a *written* response be provided to the submitter within five (5) *business days*.
- (11) A question may be disallowed by the *Chair* if the *Chair* determines that it:
 - (a) relates to a matter outside the duties, functions and powers of *Council*;
 - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - (c) may lead to a breach of *Council's* obligation to comply with information privacy principles or any other Act;
 - (d) is aimed at embarrassing a *Member of Council* or a member of *Council* staff;
 - (e) deals with a subject matter already answered; or
 - (f) is a matter that may be deemed to be confidential in accordance with *the Act*.
- (12) Any question which has been disallowed by the *Chair* must be made available to any other *Member of Council* upon request.
- (13) All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Members of Council* for the purposes of clarification.
- (14) Like questions may be grouped together and a single answer provided.
- (15) The *Chair* may nominate a *Member of Council*, the *Chief Executive Officer* or another member of *Council* staff to respond to a question.
- (16) The *Chair* or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* response will be sent within five (5) *business days* to the person who asked the question.

DIVISION 10 – PETITIONS

Overview:

Petitioning is a long-established process for members of the community to make a request or present their views on a matter directly to *Council*. In order to ensure that a petition is valid for presentation to *Council*, the procedures set out in this Division must be followed.

70. Petitions

- (1) Every petition submitted to *Council* must:
 - (a) be in legible and permanent writing;
 - (b) not be defamatory or objectionable in language or nature;
 - (c) not relate to matters outside the powers of *Council*;
 - (d) include the whole request of the petitioners or signatories on each page; and
 - (e) contain the names, addresses and handwritten original signatures of at least 12 people.
- (2) A petition received by a *Member of Council* must be lodged with the *Chief Executive Officer* at least five (5) clear days before the *Council Meeting* to allow sufficient time to include the *notice of motion* in the *agenda* to be provided to each *Member of Council* in accordance with clause 19.
- (3) The *Chief Executive Officer* must arrange for a petition to be submitted to the next practicable *Ordinary Meeting* following receipt.
- (4) Only the petition text and the number of signatories will be included in the *agenda* for the *Council Meeting*.
- (5) If a petition is addressed to an individual *Member of Council*, and listed in the *agenda*, that *Member of Council* may read the petition out at the *Council Meeting* without speaking to it. Other petitions will be read by the *Chief Executive Officer* or other member of *Council* staff nominated by the *Chief Executive Officer*.
- (6) Unless sub-clause (7) applies, the only motions that may be considered on any petition are:
 - (a) that the petition be received;
 - (b) that the petition be referred to the *Chief Executive Officer* for consideration and response; or
 - (c) that the petition be referred to the *Chief Executive Officer* for report to a future *Council Meeting*.
- (7) If a petition relates to an item already on the *agenda* of the meeting at which the petition is submitted, the matter may be dealt with in conjunction with that *agenda* item.
- (8) If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- (9) If a petition relates to:
 - (a) a 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987*; or
 - (b) a 'statutory matter' which is the subject of a public submissions process under section 223 of *the Act*the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (10) Nothing in this clause prevents:
 - (a) the *Chief Executive Officer* determining that an electronic or online petition will be submitted to a *Council Meeting*; or
 - (b) *Council* resolving to consider a petition as urgent business under clause 36.

DIVISION 11 – SUBMISSIONS AND PRESENTATIONS

Overview:

There are a number of statutory powers conferred on *Council* which require a public submissions process under section 223 of *the Act* - these include adoption of key *Council* documents (such as the Council Plan), sale of land, closure of roads and making of local laws. The public submissions process requires *Council* to give *public notice* of the proposal and to consider (and hear if requested) submissions received before making a final decision on the matter.

Apart from this public submissions process, members of the public do not have a right to address *Council* or committees established by *Council* and may only do so by prior arrangement. This Division describes a process under which arrangements may be made for members of the public to address *Council* or a committee established by *Council*.

71. Public Submissions and Presentations

- (1) Members of the public do not have a right to address a *Council Meeting* and may only do so with the consent of the *Chair* or by prior arrangement.
- (2) A member or members of the public or an organisation wishing to address *Council* may make a *written* request to the *Chief Executive Officer*.
- (3) The *Chief Executive Officer*, in consultation with the *Mayor*, may arrange for a member or members of the public or representatives of an organisation to address *Council*, a *Special Committee* or an *advisory committee* or to meet with *Members of Council* and/or members of *Council* staff.
- (4) *Council*, a *Special Committee* or an *advisory committee* (including a committee established to hear and/or consider submissions received under section 223 of *the Act* or under the *Planning and Environment Act 1987*) may regulate its own procedure for hearing from members of the public.

DIVISION 12 – VOTING

Overview:

At the conclusion of debate on a matter before the meeting, the *Chair* must put the question, motion or amendment to the vote. Each *Member of Council* is entitled to one (1) vote and voting must be by show of hands. The vote is determined by a majority of the *Members of Council* present at the meeting at the time the vote is taken voting in favour of the motion. If a vote is tied, the *Chair* generally has a casting vote. A casting vote has traditionally been used to maintain the status quo, however, it is intended in this Local Law that it is used as a 'deliberate vote' for the *Mayor* to make a decision in the best interest of the community.

This Division also describes the procedure when a *Member of Council* calls for a division on a vote.

72. How a Motion is Determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion, and then those opposed to the motion, and must then declare the result to the meeting.

73. Silence

Voting must take place in silence.

74. Recount

The *Chair* may direct that a vote be recounted to be satisfied of the result.

75. Casting Vote

In the event that the number of votes in favour of the matter is half the number of *Members of Council* present, the *Chair* must exercise the casting vote in accordance with the Act.

There are circumstances in which the Chair does not have a casting vote and the matter is determined by lot – these are found in section 90(2) of the Act and relate to election of Mayor and the appointment of Special Committee Chairpersons.

Any other matter is decided in the affirmative by a majority of Members of Council present at a meeting at the time the vote is taken, voting in favour of it.

Section 90 (e) provides that the vote is tied if the number of votes in favour of the question is half the number of Members of Council (or a Special Committee) present at the meeting at the time the vote is taken.

76. By Show of Hands

- (1) Voting on any matter is by show of hands.
 - (2) A *Member of Council* must be seated at the meeting table to cast a vote.
-

77. Procedure for a Division

- (1) Immediately after any motion is put to a *Council Meeting* and before the next item of business has commenced, a *Member of Council* may call for a division.
- (2) When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- (3) When a division is called for, the *Chair* must:
 - (a) first ask each *Member of Council* wishing to vote in the affirmative to raise a hand and, upon such request being made, each *Member of Council* wishing to vote in the affirmative must raise one (1) of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or person taking the minutes of the *Council Meeting* must record, the names of those *Members of Council* voting in the affirmative;
 - (b) then ask each *Member of Council* wishing to vote in the negative to raise a hand and, upon such request being made, each *Member of Council* wishing to vote in the negative must raise one (1) of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or person taking the minutes of the *Council Meeting* must record, the names of those *Members of Council* voting in the negative;
 - (c) next ask each *Member of Council* abstaining from voting to raise a hand and, upon such request being made, each *Member of Council* abstaining from voting must raise one (1) of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or person taking the minutes of the

Council Meeting must record, the names of those *Members of Council* abstaining from voting; and

- (d) finally declare the result of the division.

78. No Discussion Once Declared

Once a vote on a motion has been taken, no further discussion relating to the motion is allowed unless the discussion involves a *Member of Council*:

- (1) requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes of the *Council Meeting*; or
- (2) calling for a division in accordance with Clause 77; or
- (3) foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

DIVISION 13 – MINUTES

Overview:

The *Chief Executive Officer* is required to arrange for minutes of a *Council Meeting* to be kept in accordance with section 93 of *the Act*. The minutes must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision making process. The minutes of a *Council Meeting* must be submitted to the next appropriate *Council Meeting* for confirmation.

79. Keeping of Minutes

- (1) The *Chief Executive Officer* (or member of *Council* staff authorised by the *Chief Executive Officer* to attend the *Council Meeting* and to take the minutes of such *Meeting*) must keep minutes of each *Council Meeting*, and those minutes must record:
 - (a) the date, place, time and nature of the *Council Meeting*;
 - (b) the names of the *Members of Council* present and the names of any *Members of Council* on *leave of absence* or who apologised in advance for their non-attendance;
 - (c) the titles of the members of *Council* staff present who are not part of the gallery;
 - (d) any disclosure of a conflict of interest made by a *Member of Council*;
 - (e) arrivals and departures (including temporary departures) of *Members of Council* during the course of the *Council Meeting*;
 - (f) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - (g) the vote cast by or abstention from voting of each *Member of Council* upon a division;
 - (h) the vote cast by or abstention from voting of any *Member of Council* who has requested that his or her opposition to a resolution be recorded in the minutes;
 - (i) questions read and responses provided as part of public question time;
 - (j) the failure of a quorum;

- (k) any adjournment of the *Council Meeting* and the reasons for that adjournment;
- (l) the time at which standing orders were suspended and resumed; and
- (m) the time the *Council Meeting* was opened and closed, including any part of the *Council Meeting* that was closed to members of the public.

80. Availability of Minutes

- (1) The minutes as recorded by the *Chief Executive Officer* (or other officer authorised by the *Chief Executive Officer* to attend the *Council Meeting* and to take the minutes of such *Council Meeting*) will be made available as the unconfirmed minutes to:
 - (a) *Members of Council* within three (3) *business days*; and
 - (b) members of the public, by publishing on the *website* within four (4) *business days*.

81. Confirmation of Minutes

- (1) At every *Council Meeting* the minutes of the preceding *Council Meeting(s)* must be dealt with as follows:
 - (a) a copy of the minutes must be delivered or sent electronically to each *Member of Council* no later than 48 hours before the next *Council Meeting*;
 - (b) no debate or discussion is permitted on the confirmation of minutes except as to their accuracy as a record of the proceedings of the *Council Meeting* to which they relate;
 - (c) if no *Member of Council* indicates opposition, the *Chair* must ask for a motion for the minutes to be declared to be confirmed;
 - (d) if a *Member of Council* indicates opposition to the minutes, the *Member of Council* must specify the particular item or items in the minutes concerned and, after asking any questions to clarify the matter, can only move a motion to rectify the alleged error(s) in the minutes;
 - (e) once the minutes are confirmed in their original or amended form the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed; and
 - (f) the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively.

DIVISION 14 – CONDUCT AND BEHAVIOUR

Overview:

This Division describes the expected conduct and behaviour of members of the public or *visitors* at a *Council Meeting* or *Special Committee* meeting, the related powers of the *Chair* and *offences* against this Local Law.

Conduct and behaviour, such as directly addressing *Members of the Council*, interjecting or other unruly behaviour, are inappropriate. Members of the public or *visitors* at a *Council Meeting* or *Special Committee* meeting must ensure that their conduct or behaviour does not interfere with the business of *Council*.

82. Recording of Meetings

- (1) A person must not, without the prior approval of the *Chair*, operate any audio or visual recording equipment at any *Council Meeting*.
- (2) Nothing in sub-clause (1) applies to:
 - (a) any member of *Council* staff operating any recording device for the purpose of preparing draft minutes of the *Council Meeting*; or
 - (b) any security camera installed in any place in which a *Council Meeting* is held.
- (3) If the *Chair* gives approval under sub-clause (1), the *Chair* must as soon as practicable after opening the *Council Meeting*, announce the giving of approval and advise those who are in attendance that their images and/or voices are likely to be recorded during the course of the *Council Meeting*.

83. Public Addressing the Meeting

- (1) Members of the public may only address *Council* in accordance with clause 71.
- (2) Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- (3) Members of the public present at a *Council Meeting* must not interject during the *Council Meeting*.

84. Chair May Remove

The *Chair* may order and cause the removal of any person, not being a *Member of Council*, who disrupts any meeting or fails to comply with a direction.

It is intended that this power to remove a person, be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.

85. Removal from Chamber

The *Chair* may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the *Chamber* any person who acts in breach of this Local Law and whom the *Chair* has ordered to be removed from the gallery under clause 84 of this Local Law.

86. Conduct of Members of Council

The conduct of *Members of Council* at *Council Meetings* is governed by *the Act*, this Local Law and the *Council Code of Conduct*.

87. Chair may Adjourn Disorderly Meeting

If the *Chair* is of the opinion that disorder at a *Council Meeting* or in the gallery makes it desirable to adjourn the *Council Meeting*, the *Chair* may adjourn the *Council Meeting* to a later time on the same day or to some later day as the *Chair* thinks proper. In that event, the provisions of clauses 26 and 27 apply.

88. Offences

- (1) It is an offence for:
- (a) a person to use the *common seal* or any device resembling the *common seal* without the authority of *Council*;
Penalty: 10 penalty units
 - (b) a person to inscribe upon a petition a name or signature purporting to be the name or signature of another person;
Penalty: 5 penalty units
 - (c) a person to whom clause 82(1) applies to act contrary to that sub-clause, by operating any audio or visual recording equipment at a *Council Meeting* without the prior approval of the *Chair*;
Penalty: 5 penalty units
 - (d) a *Member of Council* to not withdraw an expression considered by the *Chair* to be offensive or disorderly, and apologise when called on twice by the *Chair* to do so;
Penalty: 5 penalty units
 - (e) any person, not being a *Member of Council*, who is guilty of any improper or disorderly conduct, to not leave the *Chamber* when requested by the *Chair* to do so;
Penalty: 5 penalty units
 - (f) any person to fail to comply with a direction of the *Chair* in relation to the conduct of the meeting and the maintenance of order;
Penalty: 2 penalty units

The penalty units set out in this clause represent the maximum amount which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-clause (2).

- (2) An *authorised officer* may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations to any person who has committed an *offence* against this Local Law.
- (3) The fixed penalty in respect of an infringement notice served on a person is the amount set out in Schedule 1 to this Local Law.

DIVISION 15 – SUSPENSION OF STANDING ORDERS

Overview:

Standing Orders are the rules made to govern the procedure at *Council Meetings* and *Special Committee* meetings contained in this Local Law. The Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures. Standing Orders can be suspended to facilitate the business of a meeting but should not be used purely to dispense with the processes and protocol of the government of *Council*.

89. Suspension of Standing Orders

- (1) To facilitate the business of a *Council Meeting*, *Council* may, by resolution, suspend standing orders.
- (2) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*.
- (3) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders, except a motion to resume Standing Orders.

DIVISION 16 – MISCELLANEOUS**Overview:**

This Division provides for policies, guidelines and procedures to support the operation of this Local Law.

90. Procedure Not Provided in Local Law

In all cases not specifically provided for by this Local Law, *Council* may determine the procedure to apply by resolution.

91. Policies and Guidelines

Council may adopt any policies or guidelines from time to time for the purpose of exercising any discretions conferred by this Local Law.

PART E - SPECIAL AND ADVISORY COMMITTEES

Overview:

Council may establish *Special Committees* and *advisory committees* as part of its governance framework. *Special Committees* can comprise *Members of Council*, members of *Council* staff and others. As *Council* may delegate specific powers, duties and functions to *Special Committees*, their meeting procedures need to be formal. Meeting procedures for most *advisory committees* however are typically less formal. This Part describes how the Local Law applies to meetings and proceedings of *Special Committees* and *advisory committees*.

92. Application to *Special Committees* Generally

- (1) If *Council* establishes a *Special Committee* composed solely of *Members of Council*, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Special Committee*.
- (2) For the purposes of sub-clause 92(1), a reference in Division 1-16 of this Local Law to:
 - (a) a *Council Meeting* is to be read as a reference to a meeting of the *Special Committee*;
 - (b) a *Member of Council* is to be read as a reference to a member of the *Special Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Special Committee*.

93. Application to *Special Committees* Specifically

Notwithstanding clause 92, if *Council* establishes a *Special Committee* not composed solely of *Members of Council*:

- (a) *Council* may; or
- (b) the *Special Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is (or are) not to apply, whereupon that provision (or those provisions) will not apply until *Council* resolves, or the *Special Committee* with the approval of *Council*, resolves otherwise.

94. Application to *Advisory Committees*

- (1) If *Council* establishes an *advisory committee*:
 - (a) *Council* may; or
 - (b) the *advisory committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is (or are) to apply, whereupon that provision (or those provisions) will apply until *Council* resolves, or the *advisory committee* with the approval of *Council* resolves, otherwise.
- (2) For the purposes of sub-clause (1), a reference in Division 1-16 of this Local Law to:
 - (a) a *Council Meeting* is to be read as a reference to a meeting of the *advisory committee*;
 - (b) a *Member of Council* is to be read as a reference to a member of the *advisory committee*; and

- (c) the *Mayor* is to be read as a reference to the *Chair* of the *advisory committee*.

95. Election of *Chairs* of *Special Committees*

Any election for:

- (a) *Chair* of a *Special Committee* in accordance with section 87(3) of *the Act*; or
- (b) temporary *Chair* of a *Special Committee* in accordance with section 87(4) of *the Act*

will be regulated by clauses 7-9 (inclusive) of this Local Law as if the reference to the *Mayor* is a reference to the *Chair* of the *Special Committee* or temporary *Chair* (as the case may be).

96. Adoption of Recommendation

If a recommendation of an *advisory committee* or a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.

CERTIFICATION

This Local Law was made by *Council* resolution on

Notice of the making of this Local Law was published in the *Victoria Government Gazette* on

.....

The Common Seal of Brimbank City Council
was hereunto affixed in the presence of:

)
)
)
)
)
)
)
)

.....

Mayor/Member of Council

.....

Chief Executive Officer

Date:

Schedule 1- Penalties Fixed for On the Spot Infringements

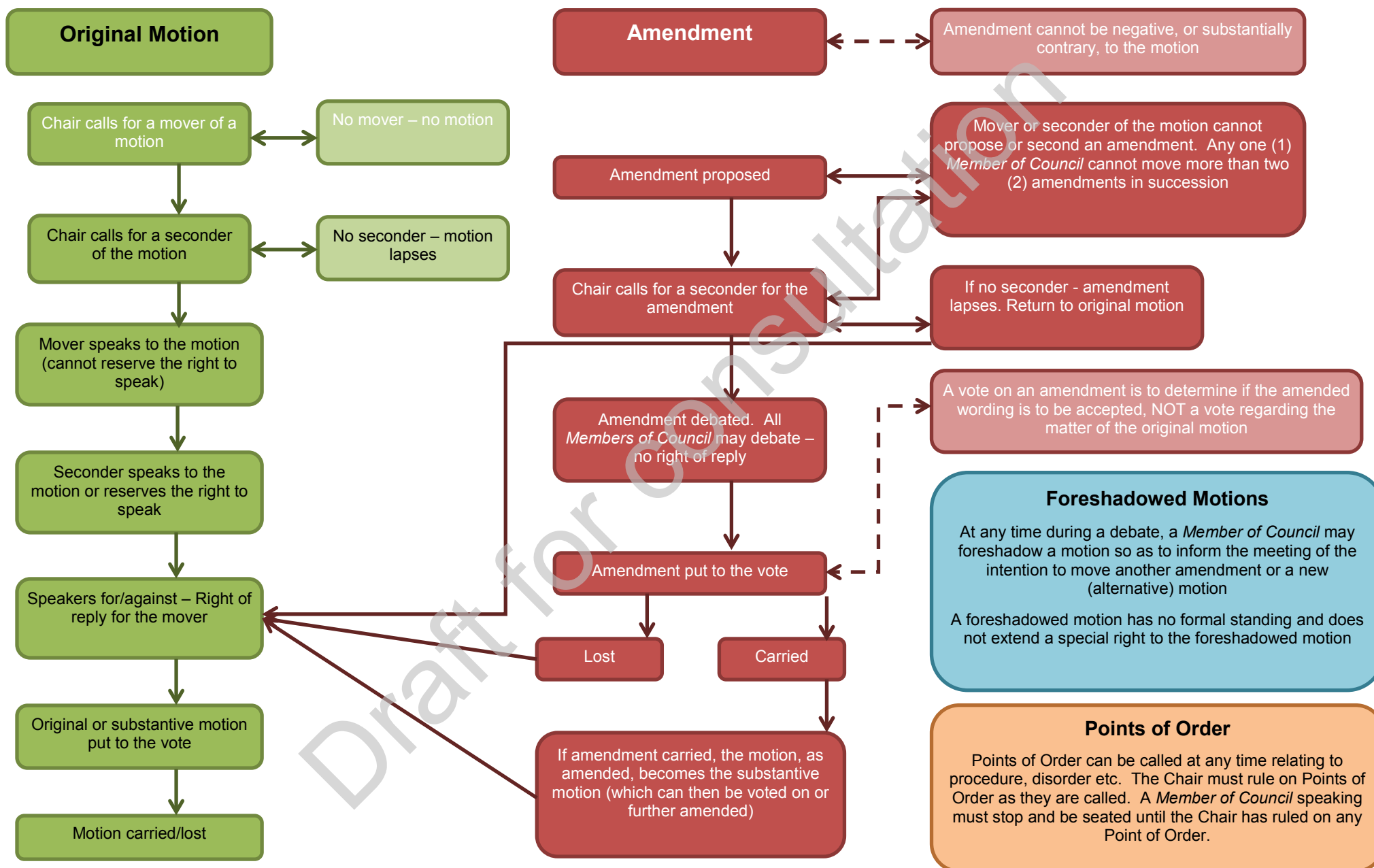
Meeting Procedure Local Law No. 1 of 2015

Local Law Provision	Offence	Penalty Units
88(1)(a)	Using the <i>common seal</i> or replica without authority	10
88(1)(b)	Fraudulently signing a petition	5
88(1)(c)	Recording meeting without prior approval	5
88(1)(d)	Call to Order – (<i>Member of Council</i>) Failing to comply with a direction of the <i>Chair</i> to withdraw an offensive or disorderly comment	5
88(1)(e)	Any person failing to comply with a direction of the <i>Chair</i> to leave the <i>Chamber</i>	5
88(1)(f)	Any person failing to comply with a direction of the <i>Chair</i> in relation to the conduct of the meeting and the maintenance of order	2

In accordance with the Sentencing Act 1991, a penalty unit for an infringement is \$100. Section 110(2) provides:

If in a local law made under Part 5 of the Local Government Act 1989 there is a statement of a number (whether whole, decimal or fractional) of what are called penalty units, that statement must, unless the context otherwise requires, be construed as stating a number of dollars equal to the product obtained by multiplying \$100 by that number of penalty units.

Schedule 2 - Procedure for Motions and Amendments





GOVERNANCE (MEETING PROCEDURE) LOCAL LAW No.1 2015

Community Impact Statement

1. INTRODUCTION

Council is proposing to update its Meeting Procedure Local Law to incorporate changes in local government legislation and to reflect current governance practice at Brimbank City Council.

The proposed new Governance (Meeting Procedure) Local Law No.1 2015 (the proposed Local Law) will supersede the current Meeting Procedure Local Law No.1 2009.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to the Council during the public consultation process required under the *Local Government Act 1989*.

2. BACKGROUND

Under the *Local Government Act 1989*, Council is required to make a local law governing the conduct of meetings of the Council and its Special Committees. Council is also required to regulate use of its common seal by way of local law.

The Brimbank City Council Meeting Procedure Local Law No.1 2009 ("the current Local Law") was made by Council resolution on 28 July 2009 and came into effect on 7 August 2009.

The Local Law regulates use of the common seal of the Council, election of the Mayor, Deputy Mayor and Chairs of Special Committees, and governs the conduct of meetings of the Council and its Committees.

The Local Law is based on a model widely used by Councils across Victoria.

The current Local Law needs to be updated to incorporate changes in legislation and to reflect current governance practice at Brimbank City Council.

3. OVERVIEW OF PROPOSED LOCAL LAW

The Local Law is being made under section 111(1) of the *Local Government Act 1989* and will operate throughout the municipal district of Brimbank City Council.

The Local Law, to be known as Governance (Meeting Procedure) Local Law No. 1 2015, will commence on the day following notice of its making is published in the Victoria Government Gazette and, unless it is revoked earlier, will expire 10 years after commencement.

On commencement of this Local Law the current Local Law will be revoked.

There are many proposed changes to the Local Law but they are not substantial and do not impact on the general purpose and purport of the current Local Law. Apart from amendments to ensure consistency with the *Local Government Act 1989 (the Act)*, the opportunity has been taken to improve clarity, remove out of date requirements and enhance Council's decision making processes.

A copy of the proposed Governance (Meeting Procedure) Local Law 2015 is attached (**Attachment 1**) to this Community Impact Statement.

4. MAIN CHANGES TO THE LOCAL LAW

All provisions of the current Local Law have been reviewed. Substantive changes are outlined in the following paragraphs. For convenience, clauses in the current Local Law are referred to as if they are changing rather than being replaced by the proposed Local Law.

Introductory provisions

An additional purpose of 'Appointment of Council representatives' has been included in clause 2.

Some definitions have been revised and new definitions have been added. These include 'appointed newspaper', Mayor and Member of Council.

Introductory and explanatory notes have been included at the commencement of each Part or Division and boxed at specific clauses. These do not form part of the Local Law – they are provided to assist understanding.

Election of Mayor and Appointment of Council Representatives

The procedure for election of Mayor has been amended to enable nominations to be made verbally at the Council meeting and the requirement for a seconder has been deleted.

An order of business for the meeting to elect the Mayor has been inserted at Clause 7(3). The order of business reflects the inclusion of the new requirement for Council to resolve on whether the term of the Mayor will be for one or two years prior to the election of the Mayor (Clause 9(2)), and for the Member of Council elected to the position of Mayor to make a commencement speech for up to 10 minutes. Clause 7 (5) outlines matters that may not be addressed in a commencement speech.

New clause 10 provides a mechanism for Council to establish the position of Deputy Mayor, and the role of any Deputy Mayor should the position be established. A requirement for a resolution to appoint the Deputy Mayor as Acting Mayor when applicable has also been included.

New clause 12 provides for the appointment of Members of Council as members of Committees established by Council and/or as Council representatives to external committees or organisations.

Clause 11 now provides for the election of a Deputy Mayor (if applicable) and a temporary Chair in the absence of the Mayor and any Deputy Mayor.

Common Seal of Council

Clause 13 has been amended to include provisions prohibiting use of the common seal without a resolution of Council, specifying the attestation clause and requiring documents sealed to be recorded on a register.

Role of Chair

Clause 14 confirms that the Mayor must take the chair at all Council meetings at which he or she is present. If the Mayor is absent, the Deputy Mayor (if any) must take the chair and if both are absent, Council must elect one of the Members of Council as temporary Chair.

Clause 15 reinforces the important role of the Mayor as Chair of Council meetings.

Special Meetings

A new sub-clause 18 (5) prohibits a Special Meeting, called by resolution of Council, from being held prior to 6pm on the day following the meeting at which the resolution is made. This will enable public notice of the Special Meeting to be made on the Website at a minimum. Provisions requiring public notice of meetings have been retained.

Notice of Meetings

Clause 19 clarifies that public notice of all Council meetings will be published in Council's appointed newspaper/s as well as at Customer Service Centres, Libraries and on Council's website.

Quorum

New clause 22 clarifies that leave of absence can only be granted by Council resolution and only in response to a written request from a Member of Council. As a matter of courtesy a Member of Council may arrange for an apology to be lodged at a meeting from which he or she is absent but this does not constitute leave of absence under *the Act*.

Procedures to be followed if there is no quorum present (either at the scheduled commencement time of a meeting or at any time during a meeting) have been amended so that, instead of lapsing, the meeting would be adjourned to a date or time to be determined. There is also an improved procedure where a quorum is lost because of conflicts of interest disclosed by one or more Members of Council.

Business of Meetings

New clause 30 clarifies that only business included in the agenda or admitted as urgent business or can be transacted at an Ordinary meeting. The order of business has been amended to reflect the current practice and agenda template.

Disability access and language and communication supports at Council Meetings have been provided for in new clause 30. These clauses are intended to ensure that people with a disability, and those that speak languages other than English, can access Council meetings and understand the business conducted.

Clause 35 has been amended to clarify the procedure for reports from Members of Council appointed as members of Council committees or as Council representatives or delegates on external committees or organisations.

Clause 36 has been amended to provide that business can only be introduced as urgent business if it arose after distribution of the agenda and it cannot be deferred until the next Ordinary meeting, or actioned through Council's operational (customer) service request process, without having a negative impact on the *Council*, the municipality or the local community.

Motions and Debate

The notice of motion process is a key avenue for individual Members of Council to have a matter considered by Council and clause 36 has been amended so that a notice of motion can be submitted under the signature of one (rather than two) Member/s of Council.

New sub-clause 38(2) requires a Member of Council to circulate his or her proposed notice of motion to other Members of Council, and provide evidence that it has been circulated, before submitting it to the Chief Executive Officer. The grounds on which Chief Executive Officer may reject a notice of motion in sub-clause 38(3) have been expanded and requirements of the Chief Executive officer, if rejecting a notice of motion, inserted as new sub-clause 38(4). New sub-clauses 38(5) and 38(7) enable the Chief Executive Officer to designate a notice of motion to be confidential and provide comments to Members of Council prior to the notice of motion being considered.

Other rules of debate amended include:

- An amendment must not be the negative or substantially contrary (rather than directly opposite) to a motion – clause 43.
- All Members of Council can speak on an amendment and that the mover of the amendment has no right of reply - clause 44.
- A motion once amended becomes the substantive motion before the meeting and can be further amended. The mover of the original motion retains the right of reply to the substantive motion – clause 46.
- A motion or amendment can be withdrawn with leave of the Chair and consent of both the mover and seconder – clause 48.
- Extensions to speaking times have been limited - clause 55.

A flowchart depicting the procedure for motions and amendments has been provided for reference in Schedule 2 to the Local Law.

Procedural Motions

The current Local Law refers to three procedural motions – adjournment of debate to a later time or date, adjournment of debate indefinitely and the 'closure' motion which requires a matter before the Chair to be put to the vote immediately. Adjournment of debate indefinitely is rarely used in modern meeting practice and has been deleted from the proposed Local Law.

Procedural motions for alteration to the order of business, suspending and resuming standing orders, and consideration of confidential items have been added to the table to provide clarity regarding the form of these motions.

Rescission Motions

The current Local Law requires a notice of rescission to be delivered to the Chief Executive Officer by close of business on the day following the meeting at which the resolution was made. As Council decisions are often acted upon on the day

after the meeting the rescission process can be ineffective because a resolution cannot be rescinded if it has already been acted upon.

In clause 59 the cut-off time for time for lodging a notice of rescission has been removed. Sub-clause 59(3) has been expanded to more explicitly explain when a resolution has been acted upon, including when unconfirmed minutes have been published.

Clause 59 also now requires a rationale for the notice of rescission and includes an expanded sub-clause describing when a resolution is deemed to have been acted on. Clause 60 increases the time limit on lodging a similar notice from three (3) months to six (6) months.

Clause 63 has been amended to provide that a motion for rescission is not required where Council wishes to change policy reference to the Governance (Major Policy) Local Law No. 3 2014 for changes to policies designated as Major Policies. This clause also provides an alternative process for a previous Council decision to be reversed or altered.

Points of Order

Clause 64 has been amended to include a more standard list of valid points of order and clauses 65 and 66 have been amended to remove the requirement to state the applicable provision, rule, practice or precedent.

Public Question Time

A number of changes are proposed:

- Amendments to clarify the procedure for lodging a public question and change the cut-off time to 12 noon on the day of the meeting – sub-clause 69(4)
- Provision for questions received in languages other than English to be translated into English – sub-clauses 69(5) and 69(6)
- The Chief Executive Officer rather than the Chair to arrange for public questions to be read to the meeting – sub-clause 69(7)
- A question can be disallowed on privacy grounds – sub-clause 69(9)
- A member of Council staff, other than the Chief Executive Officer, can be nominated to respond to a public question – sub-clause 69(13)
- A written response is to be provided if the person who submitted the question is not present or if a question is taken on notice – sub-clauses 69(8) and (14).

Petitions

Clause 70 has been re-written to provide for petitions to be submitted to the next Ordinary meeting following receipt. Only the petition text and the number of signatories will be submitted or presented to the meeting.

The Local Law outlines the actions the Council can take and makes it clear that petitions relating to planning applications or section 223 submissions will be considered as joint submissions in conjunction with those matters. Provision is also made for the Chief Executive Officer to accept an electronic or online petition and for the Council to admit a petition as urgent business.

Submissions and Presentations

The current Local Law provides a process for Deputations which does not reflect current practice. This provision has been replaced with a facilitating clause (clause 71) for:

- Hearing of submissions under section 223 of the Local Government Act 1989
- Hearing of submissions in relation to planning permit applications and planning scheme amendments
- Other presentations arranged by the Chief Executive Officer.

Voting

Clause 77 has been amended to provide for Members of Council to raise their hand to vote rather than stand in a division and to provide a record of a Member of Council abstaining from voting in a division. A new sub-clause provides for the Chair to declare the result of a division.

Minutes

Clause 79 has been amended to provide for the recording of additional information in the minutes of a Council meeting and the procedure for confirming the minutes in clause 81 has been simplified. New clause 80 has been inserted to specify when unconfirmed minutes will be available to members of Council and to the public.

Conduct and Behaviour

Clause 82 requires prior approval of the Chair before any audio or visual recording at a Council meeting. It is now proposed that if approval is granted, a courtesy announcement be made at the commencement of the meeting to alert members of the public gallery.

The current Local Law provides for the Chair to order and cause the removal of a Councillor who disrupts a meeting or fails to comply with a direction. The current Local Law also empowers Council to suspend a Councillor from the balance of the meeting if the Councillor's actions have disrupted the business at the meeting and impeded its orderly conduct.

The clause enabling suspension of a Councillor has been removed, clauses 84 and 85 have been modified to reflect application only to people who are not members of Council and new clause 86 has been inserted to specify that the conduct of members of council is governed by *the Act*, the Local Law and the Council Code of Conduct, to ensure the conduct provisions remain consistent with any relevant legislation.

Offences

All offences against the Local Law are now described in Clause 88 of the Local Law. The current penalty for a Councillor refusing to leave the Chamber upon suspension has been deleted.

There is further information on offences and penalties in the Table under 'Evaluation of Local Law' below.

Miscellaneous

Clause 89 in relation to Standing Orders has been simplified - it now provides that Standing Orders can be suspended to facilitate the business of a meeting but should not be used purely to dispense with the processes and protocol of the government of Council.

Consistent with section 91(2) of the *Local Government Act 1989*, clause 90 has been amended to provide that subject to any local laws, the conduct of meetings of a Council is in Council's discretion. New clause 91 provides for Council to adopt any policies or guidelines from time to time to support provisions of the Local Law.

A current clause in relation to criticism of members of Council staff has been removed as protocols around Member of Council/staff relationships are more appropriately articulated in the Council Code of Conduct.

Special and Advisory Committees

The current Local Law provisions automatically apply to Special and Advisory Committees unless Council resolves otherwise.

Meeting procedures for most Advisory Committees are typically less formal than Council meetings and the Local Law provisions should therefore only apply only if Council so resolves. The provisions of the Local Law have been amended accordingly.

5. EVALUATION OF LOCAL LAW

In accordance with guidelines issued by the Minister for Local Government in relation to the making of local laws, Council has conducted an evaluation of the proposed Governance (Meeting Procedure) Local Law 2015. The evaluation is outlined the following Table.

Issue	Evaluation
Objectives	<p>The purpose of the proposed Governance (Meeting Procedure) Local Law 2015 is to :</p> <ul style="list-style-type: none"> a) provide for the election of the Mayor; b) regulate the use of the common seal; c) prohibit unauthorised use of the common seal or any device resembling the common seal; d) provide for the procedures governing the conduct of Council meetings and Special Committee meetings and Advisory Committee meetings; e) set the rules of behaviour for those participating in or present at Council meetings and Special Committee meetings; and f) provide for the appointment of Members of Council as members of committees established by the Council or as Council representatives to external committees or organisations.

Issue	Evaluation
Legislative Framework	<p>The <i>Local Government Act 1989</i> gives councils broad powers to make local laws with respect to any function or power of the Council.</p> <p>Each council is required to make a local law governing the conduct of meetings of the Council and its Special Committees and to regulate the use of the common seal of the Council. Other local laws are for each council to determine within the regulatory guidelines.</p> <p>There are provisions in the <i>Local Government Act 1989</i> which relate to the conduct of Council and Special Committee meetings but there is no overlap as the Meeting Procedure Local Law provisions are consistent with the <i>Act</i>.</p>
Planning Scheme	<p>The proposed Meeting Procedure Local Law has no relevance to any Planning Scheme.</p>
Legislative Approach	<p>A Meeting Procedure Local Law is required by the provisions of the <i>Local Government Act 1989</i>.</p> <p>The proposed Local Law adopts a medium impact regulatory approach in as much as it prescribes with a level of detail the procedures and processes for the election of Mayor, use of the common seal and the conduct of Council and Committee meetings.</p> <p>This approach is considered appropriate:</p> <ul style="list-style-type: none"> • to facilitate the orderly and efficient conduct of meetings with fair and equitable access and participation of Members of Council, Committee members and where appropriate members of Council staff and the community; • to provide certainty and transparency to participants and the community in relation to the election of Mayor; and • to provide clear accountability for appropriate use and safekeeping of the common seal. <p>The proposed amendments have been incorporated into a new consolidated Meeting Procedure Local Law to provide a greater level of clarity and transparency. All provisions of the Local Law are open to public scrutiny and comment.</p>
Performance Standards or Prescriptive Details	<p>It is considered appropriate that the Governance (Meeting Procedure) Local Law is prescriptive because its purpose is to prescribe the procedures and processes for the election of Mayor, use of the common seal and the conduct of Council and Committee meetings.</p> <p>The procedures are based on long term custom and practice among Councils in Victoria.</p>
Risk Assessment	<p>No formal risk assessment has been undertaken.</p> <p>The proposed Local Law prescribes common governance procedures to be followed by Council and prescribes standards of behaviour for those participating in, or present at, Council Meetings and Committee Meetings.</p>

Issue	Evaluation
Measures of Success	<p>The success of the proposed Local Law will be best measured by the extent to which it enhances the Governance Framework and decision making processes of the Council.</p> <p>Council will assess these outcomes as part of its periodical review of its Governance Framework.</p>
Permits and Fees	<p>The proposed Local Law does not make provision for the issue of permits and does not prescribe any fees.</p>
Penalties	<p>As discussed under the heading 'Offences' in Part 4 of this Community Impact Statement, a previous offence relating to 'a Councillor refusing to leave the Chamber on suspension' has been removed from the revised Local Law. Other offences and penalties under the revised Local Law are unchanged from the current Local Law.</p> <p>Benchmarking indicates the penalties prescribed are within a reasonable range when compared with equivalent local laws of other councils.</p>
Restriction of competition	<p>The proposed Local Law relates only to Council governance processes and there are no National Competition Policy implications associated with the proposal.</p>
Comparison with other Councils	<p>Each Council in Victoria is required to make a local law governing the conduct of meetings of the Council and its Special Committees and to regulate the use of the common seal of the Council.</p> <p>The proposed Local Law is generally consistent with the meeting procedure local laws of other Victorian councils.</p>

Issue	Evaluation
<p>Charter of Human Rights</p>	<p>The Victorian Charter of Human Rights and Responsibilities (the Charter) contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. Councils must not knowingly be in breach of these rights and must always consider them when they create laws, develop policies and deliver services.</p> <p>The proposed Local Law has been reviewed for compatibility with the Charter. The key rights are the right to freedom of expression and the right to participate in the conduct of public life.</p> <p>The proposed Local Law is considered to be compatible with the Charter. Key aspects of the Local Law in relation to the Charter are discussed below:</p> <p>Notice of Meetings</p> <p>Division 2 of Part D of the Local Law contains provisions requiring notice of meetings to Members of Council and the community, facilitating participation in public life. The Local Law is consistent with associated legislation and provides for reasonable standards and options for these groups to access information regarding Council business.</p> <p>Conducting Business at Meetings</p> <p>Divisions 3 to 8 of Part D contain a number of provisions which could be considered to restrict the business which may be conducted at meetings and the manner in which Members of Council, and Committee members can participate. These include procedures and limitations around introducing urgent business and notices of motion; speaking times; rules of debate; procedural motions and rescission motions.</p> <p>While the proposed Local Law imposes procedural limitations, it does so in a manner which is considered proportionate to the purpose and objectives of the Local Law, taking into account the need to provide notice of business to be conducted at a meeting and the efficient and orderly conduct of meetings.</p> <p>Public Participation</p> <p>Divisions 9, 10 and 11 of Part D of the Local Law provide for participation by the community in the conduct of Council and Committee meetings through public question time, petitions and the hearing of submissions or presentations.</p> <p>The Local Law regulates that participation with procedural limitations regarding the form, content and processes to be followed and these limitations engage the freedom of expression and the right to participate in public life provisions of the Charter. It is considered the provisions of the Local Law are proportionate to the purpose and objectives of the Local Law, including the efficient and orderly conduct of meetings.</p>
<p>Community Impact Statement Meeting Procedure</p>	<p>Local Law</p>

Issue	Evaluation
	<p>Conduct and Behaviour</p> <p>Division 14 of Part D of the Local Law regulates the conduct and behaviour of Members of Council, members of Council staff and members of the public (referred to as ‘visitors’ in the proposed Local Law) at a Council or Committee meeting.</p> <p>These provisions again engage the freedom of expression and the right to participate in public life provisions of the Charter and again it is considered the Local Law does so in a manner proportionate to the purpose and objectives of the Local Law to provide for the efficient and orderly conduct of meetings.</p>
Community Consultation	<p>The proposed Meeting Procedure Local Law has been reviewed in consultation with Members of Council and Council staff.</p> <p>A community consultation process will be conducted in accordance with sections 119(2) and 223 of the <i>Local Government Act 1989</i>.</p> <p>This will require Council to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to the Council in relation to the proposed Local Law. Council will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by the Council or a committee appointed by the Council in support of his/her submission. When the Council makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to the Council.</p>

6. ATTACHMENTS

- **Attachment 1** - Proposed Governance (Meeting Procedure) Local Law No.1 2015